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April 17, 2001

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Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, NW
Washington, D.C.

Re: Permitted Ex Parte Communication, CS Dkt. No. 00-2 /

Dear Ms. Salas:

In a meeting on March 15, 2001, the National Basketball Association, National Hockey League, National Football League and Office of the Commissioner of Baseball (collectively "the Leagues") proposed a change in new Section 76.128, dealing with satellite sports blackouts, to the Commission's Cable Services Bureau staff.

As adopted in November, 2000, new Section 76.128 requires that parties seeking satellite blackouts of sports events must provide notice to satellite carriers within 48 hours "after the time of the telecasts to be deleted is known." This contrasts with the quarter-century old cable notice requirement under Section 76.111 (formerly Section 76.67) that regular season notices be received no later than the Monday before the calendar week in which the deletion is to take place. See Section 76.111(c). The Leagues believe that the new requirement for satellite blackouts is unduly burdensome on the requesting parties (and would create unanticipated burdens on the carriers, as well) and that a period designed on the cable model, but affording the carriers additional time, would better serve all interested parties, including the public.

The Leagues therefore proposed that regular season notices be sent so that they are received by the carriers no less than 15 days before the start of the season affected. The Leagues also proposed to provide Zip Code information in advance of the season.

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This proposal would permit a single master notice to be sent to each carrier in advance of the season. In contrast, as the Leagues have pointed out, under the current satellite rule, the Leagues must provide notices multiple times because individual teams make their schedules known at various time before the season. For example, if the Chicago Bulls issued its away game telecast schedule on August 15, the NBA would have to send out notices (to be received by August 17) for every other team affected by a Bulls away telecast; if the Boston Celtics issued its away game telecast schedule on August 21, the NBA would have to repeat the exercise (to be received by August 23) for every other team; if the Los Angeles Lakers issued its away game telecast schedule on September 1, the exercise would be repeated yet again, and so forth. The Commission's rule would require the mailing of hundreds, if not thousands, of notices, an unbelievable burden on the Leagues and an administrative nightmare for the carriers as they attempted to monitor the constant flow of notices coming in.

Moreover, the piecemeal nature of the current system would require that the Leagues send out notices on the basis of incomplete information; this would force the Leagues to seek protection for telecasts which might later be determined to be ineligible for sports rule protection. For example, under the new satellite rule, if the Chicago Bulls away game telecast schedule (released August 15) shows that the Bulls playing at Washington would be televised by the Chicago flagship station, the NBA (on behalf of Washington) would seek protection for that telecast under the 48 hour standard, even if it is later learned, once Washington's television schedule is released (released on September 1), that sports rule protection is inappropriate because Washington would be televising the game over-the-air at home. Similar problems are raised for the NFL, which was just required under the rules (due to the release of the 2001 schedule) to send out notices requesting the blackout of every single NFL network telecast for 2001, although by the time of 15 days before the beginning of the regular season, the vast majority of these games will be sold out, lifting the blackout, and necessitating yet another round of notices, rescinding the earlier ones. Additional detail about the difficulties created by the new satellite notification system was provided in an Attachment prepared by Office of the Commissioner of Baseball to its Reply to Oppositions of EchoStar Satellite Corporation, DirecTV, Inc., and Association of Local Television Stations, Inc., filed with the Commission on February 8, 2001.


By contrast, adoption of this proposal would allow each league to send out a single set of notices covering every team in that league at one time – in the same fashion that they have done with cable over the past 26 years. Moreover, the use of a 15-day period in advance of the season would allow satellite carriers sufficient time to enter the necessary game and Zip Code information to accomplish the blackout requests.

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Should you have any questions, please communicate with the undersigned.

Sincerely,


Philip R. Hochberg

cc: William Johnson, Esq.
Eloise Gore, Esq.
Ronald Parver, Esq.